THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.5236 of 2002

Dated: 1.8.2006

Between
Sri Neelakanteswara cotton traders,
Adoni

.....Petitioner

and

The Selection Grade Secretary
Agricultural Market Committee,
Adoni.

....Respondent

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.5236 of 2002

ORDER:

This writ petition is filed seeking a Mandamus to declare the impugned letter in Roc.No.803/2001 dated 5.12.2001 as arbitrary and illegal and violative of Articles 14 and 19 (1) (g) of the Constitution of India and consequently to direct the respondent to immediately issue fresh Export Permit Book to the petitioner.

It is the case of the petitioner that he is a licensee in the Agricultural Market Committee, Adoni. The petitioner deals with the export of cotton lint, sale of cotton waste and cotton seeds in the local market. The petitioner purchased raw cotton khapas after paying necessary market fee. Thereafter, the cotton khapas ginned, cotton seeds and waste cotton are sold in the local market and the lint is exported. The petitioner is a cotton merchant for the last 30 years. It has been paying necessary cess and fees and also filing monthly returns towards purchase of cotton khapas. There are no dues pending to be paid by the petitioner to the Market Committee. While so, The petitioner was issued Export Permit book vide Nos.15901 to 15950 in the year 1998. The said book was completely utilized. Therefore, the petitioner filed an application for issuance of a fresh permit book on 30.8.2001. Since the same was not issued, the petitioner made several requests personally. Further on 1.11.2001, the respondent

addressed a letter stating that serial numbers 15901 to 15908 of the Export Permit Book have not been furnished. As per Bye-law No.24 (8) a duplicate copy of the permit has to be sent to the Marketing Committee Office and the 3rd copy should be available with the trader and after submitting accounts of the permit, new Permit Book should be sought for. When the Agricultural Market Committee asked to submit accounts and get the new book, he got issued a legal notice dated 21.11.2001 bringing to the notice of the respondent that due to the delay in issuing Export Permit Book there is a huge loss sustained by the petitioner apart from losing reputation and good will in the business circle. The details of usage of Export Permit during the previous assessment years was produced from time to time by the petitioner and even the accounts against serial numbers 15901 to 15907 and serial numbers 15908 to 15950 were submitted. Therefore, the question of not complying with the requirements of Bye-law No. 24 (8) of Bye-laws does not arise.

A detailed counter affidavit has been filed stating that the petitioner sold cotton seeds to the traders residing in other parts and out of State and transported the same by using the committee permits as if it was suffered market fees according to the permit account furnished by him to the Agricultural Market Committee, Adoni, which reads as follows:

Year	Cotton Seed Quantity	Value	M.F payable
1998-1999	99691 kgs	Rs.583270	Rs.5833.00
1999-2000	71305 kgs	Rs.352449	Rs.3525.00
2000-2001	29400 Kgs	Rs.183260	Rs.1833.00
2001-2002 Upto 10.8.2001	47368 Kgs	Rs.400700	Rs.4007.00

Total	2477764 Kgs	Rs.1519679	Rs.15198.00

Therefore, the petitioner has to necessarily pay an amount of Rs.15,198/- to the Market Committee against the above said transactions. Further it is stated that the permit is a facility provided to the licensee by the committee for the produce on which he had already paid the connected market fee for its free transportation. In the instant case, the petitioner has transported 247764 Kgs from 1998-1999 to 2001-2002 (upto 10.08.2001) worth of Rs.1519679 as if it was already paid market fee of Rs.15198 to AMC Adoni, which is actually not paid by him against the goods transported. Therefore, in view of the Bye-law No.24 (8) of the Bye laws, fresh permit book shall be issued to the trader only after the said trader submits his detailed account in respect of the permit book issued earlier to him. In the instant case, the petitioner submitted the permit account from 15908 to 15950 instead of 15901 to 15950. The Committee requested him to submit the balance permit account from 15901 to 15907. The petitioner failed to do so. Therefore, issuance of fresh permit book was refused.

Learned counsel for the petitioner strenuously contended that as per the procedure, there shall be three foils of one coupon. One is supposed to accompany the goods exported, second one is submitted to the Committee while exporting those goods. The third foil is supposed to be with the petitioner. Though the petitioner has rest of the foils i.e., 15908 to 15950 with him, the earlier seven foils were missing. Therefore, he was not able to produce the same. In fact, those foils against 15901 to

15907 were accompanied with the accounts submitted by the petitioner to the respondents and the accounts mentioned herein above as to the export of cotton seed quantity and Market Fee payable against them is relatable to the foils 15901 to 15907. Therefore, they have not verified the accounts properly. The Market Committee is taking it as a prestige issue as the petitioner has got issued legal notice through an advocate. In the entire counter filed by the respondents no where it is denied that the procedure as to the availability of three foils against each number of the coupon and first one accompanying the goods, second one submitting to the committee and third one being retained by the trader._

The petitioner has asserted that he submitted returns regularly and along with the returns, he accounted for each and every export made by him under those seven foils that were not properly taken into consideration. Absolutely, there is no reply in this regard in the counter filed by the respondent.

Learned counsel for the petitioner further submitted that the respondent has invented the device for the purpose of demanding the dues which is beyond three years preceding the date of legal notice and they have invented this method only to collect the Market Fee illegally and also by taking advantage of the petitioner stating that he has lost those seven foils against those coupons.

Be that as it may. In view of the fact that the procedure in submitting the coupon and foils is not in dispute and it is also not in dispute that the petitioner had submitted all the relevant returns

as required under the law, the respondents are directed to verify those export goods made by the petitioner after issuing the permit book bearing Nos. 15901 to 15950, without insisting upon production of the counter foils against 15901 to 15907 and consider issuing of fresh permit book within a period of two months from the date of receipt of a copy of this order. The petitioner was already denied permit for five years . If it is not decided within two months, the petitioner shall be issued with fresh permit book without further loss of time.

Writ petition is disposed of accordingly. No costs.

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01.08.2006

Note:
Issue CC by Monday
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